

1-17311



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: DEI Integrated Security Control Systems--
Reconsideration

File: B-248223.2; B-247193.3

Date: July 29, 1992

Thomas B. Steg for the protester,
Linda S. Lebowitz, Esq., Andrew T. Pogany, Esq., and
Michael R. Golden, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Where a protester files its own separate protest concerning a matter which is different, albeit related, to the subject of another protest, the protester cannot rely on the fact that it has filed its own protest in order to establish that it is entitled to request reconsideration of the decision issued pursuant to the other protest.

DECISION

DEI Integrated Security Control Systems (DEI) requests reconsideration of our decision in Glen Indus. Communications, Inc., B-248223, May 19, 1992, 92-1 CPD ¶ 453, and our dismissal of its own protest on May 21, 1992. We deny DEI's requests for reconsideration.

In the former decision, we sustained the protest of Glen Industrial Communications, Inc. (GIC) challenging the award of a contract to DEI under request for proposals (RFP) No. DCA100-92-R-1003 (RFP-1003), issued by the Defense Information Systems Agency, Communications Systems Support Group, for the installation, lease, and maintenance of an integrated security system. We determined that since the RFP expressly invited the submission of front-loaded offers, the agency had improperly rejected GIC's low over-all evaluated offer precisely because it was front-loaded. In accordance with our recommendation, the agency terminated for convenience DEI's contract and awarded the contract to GIC. On reconsideration, DEI challenges our decision sustaining GIC's protest and our recommendation for corrective action.

DEI has admitted that it was aware of GIC's protest challenging the award of a contract to DEI under RFP-1003. The record shows, however, that DEI did not participate in any way in GIC's protest, including filing any correspondence as an interested party (i.e., as the awardee) in the matter. Under our Bid Protest Regulations, an interested party who was aware of a protest, but chose not to participate in it, is not entitled to request reconsideration. 4 C.F.R. § 21.12(a) (1992). Here, there is no showing that DEI, the nonparticipating party, was unaware of GIC's protest.

Although DEI did not participate in GIC's protest, it argues that it should be allowed to seek reconsideration as it had its own related protest pending before our Office. Specifically, DEI protested an initial award for the same requirements under RFP No. DCA100-91-R-1008 (RFP-1008) to GIC. DEI argued that as a result of a latent ambiguity in RFP-1008, proposals were not properly evaluated. The agency agreed that RFP-1008 was defective, terminated for convenience GIC's contract, and issued RFP-1003. DEI then amended its initial protest, arguing that it should have received the award under RFP-1008 and that the cancellation was improper.


While that matter was pending, the agency awarded a contract to DEI under RFP-1003. (It was GIC's protest of that award which we sustained in our May 19 decision.) Because DEI had received the award under RFP-1003, the agency requested that DEI's protest be dismissed as academic. The agency mailed to DEI a copy of its request for dismissal, and we requested DEI to file a written response to the dismissal request. DEI did not file a written response. In light of the award to DEI under RFP-1003, DEI's protest of the cancellation of RFP-1008 appeared to be academic. Accordingly, we dismissed DEI's protest on that basis.

We fail to see why DEI's protest, which involved a matter which was different, albeit related, to the subject of GIC's protest and which in any event DEI essentially abandoned by not responding to the dismissal request, entitles DEI to request reconsideration of our decision on GIC's protest. DEI admittedly was aware of GIC's protest and the fact that our Office had agreed to decide that protest on an expedited basis. If DEI wanted its views with respect to GIC's assertions considered, DEI should have submitted its views during our consideration of GIC's protest. DEI could not choose to ignore GIC's protest simply because it had pending a protest concerning an earlier phase of the procurement, specifically, the propriety of the cancellation of RFP-1008 and the issuance of RFP-1003, which was an issue entirely different from the one raised by GIC concerning the propriety of the rejection of its offer as front-loaded.

As we have stated many times, our protest regulations do not envision the piecemeal presentation of evidence or arguments by those who do participate in a protest, see, e.g., RC 27th Ave. Corp.--Recon., B-246727.2, May 20, 1992, 92-1 CPD ¶ 455, or efforts to have our decisions modified or reversed by those who elect not to participate in the protest proceedings, see Tandem Computers, Inc.--Recon., B-221333.2 et al., Sept. 18, 1986, 86-2 CPD ¶ 315, to allow either would undermine the goal of resolving protest issues on the basis of a complete record and as expeditiously as possible so as to minimize disruption to the procurement process. In short, what DEI would now have us consider is something that it could and should have presented to us earlier. Its failure to do so precludes its request for reconsideration of our May 19 decision.

We also find no basis to reconsider our May 21 dismissal. As stated above, in our view, because of the award to DEI under RFP-1003, DEI's protest of the cancellation of RFP-1008 appeared to be academic. In addition, DEI never responded to the agency's dismissal request. In its request for reconsideration of our dismissal, DEI merely describes a chronology of events, but fails to articulate any substantive reason for why our dismissal was improper. For this reason, we find no basis to reconsider our May 21 dismissal.

Accordingly, the requests for reconsideration are denied.


Ronald Berger
Associate General Counsel